

Q & A's Regarding the Handling of Resident Tribal Member (RTM) filings of the MI 1040 and the 4013.

Definitions –

- Resident Tribal Member (RTM) – Those members (of a Tribe that has an implemented tax agreement with the State of Michigan) that are residing within their own Tribe's negotiated Agreement Area.
- 4013 – Is the form a RTM may use to claim an annual sales tax refund. Members who do not reside within their Tribe's Agreement Area or who belong to a Tribe without an implemented tax agreement may not claim this refund.
- MI-1040 – Michigan Income Tax Return.

Q1 As a RTM how do I file the 4013?

A1 Even though the 4013 is a completely separate sales tax refund return, it must be filed with the RTM's MI-1040. If the RTM does not have an AGI, the RTM should still fill out the return by entering a "1" for AGI and completing the rest of the return per the instructions. Please note that the 4013 credit does not feed over to the MI-1040.

Q2 I already filed my MI-1040 electronically, how do I file the 4013?

A2 The 4013 would then be filled out and filed on its own. Once received by the Department it will be matched up with the MI-1040 on file.

Q3 How does the 4013 credit work?

A3 The 4013 guides the RTM through a process where their federal AGI is modified to include certain specified types of income. This "modified AGI" is then subjected to a predetermined cap and then multiplied by a negotiated percentage to determine the total amount of sales tax refund a RTM can claim that year. That amount may be reduced based upon the number of months the RTM was considered a RTM. E.g., if a member moves into the Agreement Area half way through the year, he or she may only take 6/12ths or one half of the credit.

Q4 Why does a second non-obligated spouse form get issued for the tribal sales tax credit and how is it prorated?

A4 A second non-obligated spouse form gets issued because the 4013 is a completely separate form that is refunding sales tax and is not carried over to the MI-1040. It is only filed with the MI-1040 income tax return for administrative purposes. The determination of the NOS share should be determined using the same rules as with any non-NOS situation.

Q5 I am a member of the _____ tribe; why did you deny my credit?

A5 Your credit could have been denied for a variety of reasons. You should have received a denial message from the Department. Please refer to the message and if you have a more specific question call 1 800 827 4000.

Q6 Why isn't the 4013 form available on the Internet?

A6 To eliminate confusion regarding who can use the form, Resident Tribal Members belonging to a tribe with a State/Tribal Tax Agreement must obtain the form directly from their Tribe.

Q7 How long does it take to receive the 4013 refund?

A7 It generally takes between 6 to 8 weeks to receive the refund.

Q8 If I don't have a federal adjusted gross income and am not required to file a Michigan income tax return (see answer to question 20 to verify whether they must file a MI 1040), can I file a 4013 without the Michigan income tax return?

A8 In order to receive the 4013 annual sales tax credit you must file it with a Michigan income tax return. When filling out the Michigan income tax return, simply enter a "1" where the federal adjusted gross income would go and fill out the remainder of the return.

Q9 I am a Resident Tribal Member but my spouse is not. We filed a joint income tax return. Can I still file a 4013?

A9 Yes. Just follow the instructions on the 4013 and it will allow you to separate out your Resident Tribal Member income and calculate the credit based only on that income.

Q10 My tribe did not implement its agreement until part way through the year. Does this reduce the amount of my 4013 refund?

A10 Yes, the refund must only be calculated based on the number of months that your Tribe had an implemented agreement with the State **and** you qualified as a Resident Tribal Member. (See answer to question 3)

Q11 My tribe does not have a tax agreement with the State of Michigan. Can I still file the 4013?

A11 No, only members of tribes with an implemented State/Tribal Tax Agreement may file the return and only for the period they qualified as a Resident Tribal Member.

Q12 Does the 4013 refund feed over to a line on the Michigan Income Tax Return?

A12 No, they are separate returns and separate warrants will be issued for each refund.

Q13 I received a denial letter stating that I am not a Resident Tribal Member, how should I correct this?

A13 Once your Tribe and the State have adjusted their records to show your Resident Tribal Member status, complete and file an amended form 4013.

Q14 As a RTM how do I file the MI-1040?

A14 The MI-1040 should be filed pursuant to the regular instructions provided in the MI-1040 Instruction Booklet. The total income exempt per the terms of the State/Tribal tax agreement should be entered on line 20 (Miscellaneous subtractions) of the MI-1040 Schedule 1. The phrase “Resident Tribal Member Income” should be entered in the blank space provided on line 20 describing the reason for the subtraction.

Q15 I am a RTM and my spouse is not. We live in the Agreement Area but do not work in the Agreement Area. How is our income prorated on the MI-1040 income tax return?

A15 Assuming a joint return, you would report your combined AGI on the appropriate line of the MI-1040 and subtract only the RTM spouse’s exempt income (see answer to question 16 for instructions on how to report the subtraction). The non-RTM spouse’s income is taxable regardless of whether or not earned in the Agreement Area.

Q16 Where do I subtract income based on my status as a RTM?

A16 A RTM’s exempt wage income may be subtracted on line 20 of the MI-1040 Schedule 1 (regardless of where earned). The RTM should indicate “Resident Tribal Member Income” on the space provided. Please note that a RTM may only subtract exempt income for the period for which they qualified as a RTM (see definitions for RTM.)

Q17 Can a tribal member receive a homestead property tax credit or a home heating credit?

A17 Yes, if they meet the normal requirements identified under state law.

Q18 Can I subtract my child welfare?

A18 This would be handled per state or federal normal procedures without any special regard to Indian Tribal Member status.

Q19 If income is exempt from federal income tax, is it also exempt from Michigan tax?

A19 These situations must be evaluated on a case by case basis depending on the specific exemption being claimed.

Q20 As a Resident Tribal Member, do I have to file a Michigan income tax return even if I am not required to file a federal income tax return?

A20 The terms of the Tax Agreement require Resident Tribal Members to file a Michigan Income tax return if a) they owe Michigan income tax, b) they are due a Michigan income tax refund, c) their federal adjusted gross income exceeds their exemption allowances **or** d) they filed a federal income tax return.

Q21 Can enrolled members of a federally recognized tribe without a State/Tribal Tax Agreement claim an Indian exemption on their Michigan income tax return?

A21 Yes, but only if they reside within their tribe's Indian Country (as defined in 18 USC 1151) **and** the income is earned within their tribe's Indian Country. They cannot claim the exemptions that are provided under the Tax Agreement.

Q22 How do I know if my Tribe has an implemented tax agreement with the State?

A22 Tribes that have implemented agreements with the state are listed on the Department of Treasury's website at www.michigan.gov/taxes under income tax or business information; click on the Native American link. Copies of the Tax Agreements can also be viewed by clicking on the Tribe's link.